



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes BOARD OF ZONING APPEALS

James A. Mills, Ward 3, Chairman
J. K. Lowman, Ward 2, Vice Chairman
Brad N. Leskoven, Ward 1
David Hunter, Ward 4
Ronald Clark, Ward 5
Bobby Van Buren, Ward 6
Justice Barber, Ward 7

Monday, February 29, 2016

6:00 PM

City Hall Council Chambers

Present: James Mills, J. K. Lowman, Brad N. Leskoven, Ronald Clark, Bobby Van Buren and Justice Barber

Absent: David Hunter

Staff:

Rusty Roth, Development Services Manager

Jasmine Chatman, Urban Planner

Daniel White, City Attorney

Ines Embler, Secretary to the Board

CALL TO ORDER:

Chairman Mills called the February 29, 2016 meeting of the Board of Zoning Appeals to order at 6:00 PM.

Chairman Mills explained the rules and procedures used in conducting the public hearings.

MINUTES:

20160133

January 25, 2016 Board of Zoning Appeals Meeting Minutes

Review and Approval of the January 25, 2016 Board of Zoning Appeals Meeting Minutes.

Mr. Lowman made a motion, seconded by Mr. Van Buren that the January 25, 2016 Board of Zoning Appeals meeting minutes be approved. The Motion carried 6-0-0. Mr. Hunter was absent.

A motion was made by Board member Lowman, seconded by Board member Van Buren, that this Minutes be Approved and Finalized. The motion CARRIED by the following vote.

Absent: 1

Vote For: 6

VARIANCES:

20160070 V2016-03 [VARIANCE] MARY ROBINSON

V2016-03 [VARIANCE] MARY ROBINSON is requesting variances for property located in Land Lot 1160, District 16, Parcel 0310, 2nd Section, Marietta, Cobb County, Georgia and being known as 275 North Forest Avenue. Variance to reduce the side yard setback for an addition from 10' to 5.1'; variance to reduce the side yard setback for an unenclosed projection from 5' to 4.7.' Ward 3A.

A public meeting was held.

Mr. Richard Grubb, the applicant, presented a request for a variance to reduce the side yard setback for an addition from 10' to 5.1'; variance to reduce the side yard setback for an unenclosed projection from 5' to 4.7' in order to add a carport to the existing property.

There was no opposition to this variance.

Mr. Grubb mentioned that they also needed an additional variance to the back of the property and Mr. Mills asked staff for an explanation. Staff explained that since the carport is open, it would not need a setback variance for the rear.

Mr. Van Buren asked if the depiction provided was accurate and Mr. Robinson stated yes, that it is to scale.

The public hearing was closed.

A motion was made by Mr. Mills granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship. It was seconded by Mr. Leskoven. The Motion carried 6-0-0.

A motion was made by Board member Mills, seconded by Board member Leskoven, that this Variance be Approved and Finalized. The motion CARRIED by the following vote.

Absent: 1

Vote For: 6

20160071

**V2016-04 [VARIANCE] ADVANCED PRESSURE & GUTTER
CLEAINING INC.**

**V2016-04 [VARIANCE] ADVANCED PRESSURE & GUTTER
CLEAINING INC. is requesting a variance for property located in Land Lot
1206, District 16, Parcel 0020, 2nd Section, Marietta, Cobb County, Georgia
and being known as 1827 Lower Roswell Road. Variance to allow the use of
gravel as an acceptable parking and/or driving surface. Ward 7A.**

A public meeting was held.

Mr. Ryan Tingle, General Manager, for the applicant, presented a request for a Variance to allow the use of gravel as an acceptable parking and/or driving surface in order to store overflow of trailers and equipment.

There was no opposition to this variance.

Ms. Barber asked for clarification of the elements in the pictures provided. Mr. Tingle explained that the examples in the picture are for the color palette of the property and examples of fencing as well.

Ms. Barber asked if he's read the staff recommendations and if they have been able to discuss making the existing paved driveway the appropriate widths. Mr. Tingle said yes and that they would probably go with the one way option and then expand it to fourteen (14) feet. He said they have three hundred (300) feet of untouched property behind there that they don't plan on touching.

Mr. Van Buren asked if that would cause a problem with wash, erosion. Mr. Tingle explained that it's very flat and it's a permeable surface so you won't see any wash there.

The public hearing was closed.

A motion was made by Ms. Barber with stipulations, to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Van Buren. The Motion carried 6-0-0.

Stipulations:

- 1. The paved driveway access has to meet the width of fourteen (14) feet for one way access or twenty (20) feet if they make it two way access.*
- 2. A fifty (50) foot buffer be maintained along the north property line.*
- 3. If applicable, the applicant will comply with the City of Marietta's post development storm water ordinance.*
- 4. Applicant will consult with the City before installing the fence to make sure that it meets code.*

A motion was made by Board member Barber, seconded by Board member Van Buren, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.

Absent: 1

Vote For: 6

20160072

V2016-05 [VARIANCE] VOYLES FAMILY PARTNERSHIP LLLP

V2016-05 [VARIANCE] VOYLES FAMILY PARTNERSHIP LLLP is requesting variances for property located in Land Lots 781, District 17, Parcel 0050, 2nd Section, Marietta, Cobb County, Georgia and being known as 2103 Cobb Parkway South. Variance to allow the existing nonconforming signs (height and structure area) remain after redevelopment; variance to reduce the side yard setback for an existing building from 15 feet to 4 feet; variance to increase the allowable impervious surface from 80% to 88%; variance to allow the use of ACM (Aluminum Composite Metal) panels on the side of a building facing a roadway; variance to reduce the required landscaped area to 7.2%; variance to allow a second sign on the same road frontage. Ward 7A.

A public meeting was held.

Mr. Eric Taylor on behalf of the applicant, with the assistance of their design experts, Steve Ellis, Roy Mertz and Brian Kay, presented a request for a variance to allow the existing nonconforming signs (height and structure area) remain after redevelopment; variance to reduce the side yard setback for an existing building from 15 feet to 4 feet; variance to increase the allowable impervious surface from 80% to 88%; variance to allow the use of ACM (Aluminum Composite Metal) panels on the side of a building facing a roadway; variance to reduce the required landscaped area to 7.2%; variance to allow a second sign on the same road frontage in order to renovate their business.

There was no opposition to this variance.

Ms. Barber asked if the poster being presented was consistent with plans submitted and if he had any depictions of what the new signs are supposed to look like. Mr. Ellis said yes, it is consistent with plans submitted and Mr. Mertz approached the board members and shared depictions of the planned signs.

Ms. Barber asked if the smaller sign would stay the same with no text at the base and Mr. Mertz affirmed.

Ms. Barber asked regarding the letter submitted with the packets where there were multiple references that they could not achieve some of the code requirements due to the nature of the business and the use of the site and she can see that the site would be challenging to bring the impervious surface and landscaping into code, but she was curious as to whether there was some additional hardship that wasn't mentioned to make him go so far as to say that it's not possible. Mr. Kay explained that it's a hard surface that they need and they can put in a gravel surface in the advance pressure wash area to help the imperviousness of it, but they don't want the dust that comes from a more gravel type surface, so they are looking for a hard surface, perhaps a paver system to offset some of the imperviousness. It's not a hardship per se, it's based on their operations; they don't want to lose parking, as number of spaces means money.

Ms. Barber asked what changes were made based on the staff recommendations of trying to reach 85% target and 10% target. Mr. Kay explained that they had to remove parking in order to fit into the recommended percentages.

The public hearing was closed.

A motion was made by Ms. Barber, with stipulations, to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Lowman. The Motion carried 6-0-0.

Stipulations:

- 1. Regarding Variance #5: the landscaped area has to comply with a ten percent (10%) level instead of seven point two percent (7.2%).*
- 2. Regarding Variance #3: the impervious surface has to be limited to eighty-five percent (85%) instead of eighty-eight percent (88%).*
- 3. Regarding Variances #1 and #6: the approved signs to be consistent with the plans that were submitted at the public session.*

A motion was made by Board member Barber, seconded by Board member Lowman, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.

Absent: 1

Vote For: 6

20160073

V2016-06 [VARIANCE] LESLIE L. OWEN

V2016-06 [VARIANCE] LESLIE L. OWEN is requesting a variance for property located in Land Lot 11500, District 16, Parcel 0380, 2nd Section, Marietta, Cobb County, Georgia and being known as 476 Stewart Ave. Variance to allow the use of slate chips as an acceptable parking and/or driving surface. Ward 4A.

A public meeting was held.

Ms. Owen, the applicant, presented a request for a variance to allow the use of slate chips as an acceptable parking and/or driving surface as a proactive measure to prevent natural erosion and to protect the exposed roots of their oak trees. This slate chip driveway will only have occasional usage as they will continue to use their main driveway for daily use.

There was no opposition to this variance.

Ms. Barber asked if there was any discussion about having a paved entrance area at the two "u" cutouts so that the slate was not going right out to the driveway? Ms. Owen said there was not.

Ms. Barber asked if she was open to modifying that to further reduce slate coming into the driveway in front of the road opening? Ms. Owen said she would be open to pavers.

Mr. Lowman asked if she has considered a low fence to keep people from driving on the slate chips and Ms. Owen said she did not.

The public hearing was closed.

A motion was made by Mr. Lowman, with stipulations, to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Clark. The Motion carried 6-0-0.

Stipulations:

- 1. Maintain and sweep the driveway frequently to prevent rock from entering the road.*
- 2. Maintain the gravel area to ensure there is no concentrated water flow across or from the gravel area to eliminate erosion and further prevent rock from entering the road.*

A motion was made by Board member Lowman, seconded by Board member Clark, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.

Absent: 1

Vote For: 6

20160074

V2016-07 [VARIANCE] WHB CONTRACTORS LLC

V2016-07 [VARIANCE] WHB CONTRACTORS LLC is requesting a variance for property located in Land Lots 1088 & 1145, District 16, Parcel 2480, 2nd Section, Marietta, Cobb County, Georgia and being known as 197 Blair Valley Drive. Variance to reduce the western side yard setback from 10' to 6'. Ward 5A.

A public meeting was held.

Drew Clough, the applicant, presented a request for a variance to reduce the western side yard setback from 10' to 6' in order to meet HOA and Architectural Committee desires to have home in keeping with esthetics of the neighborhood into an extremely narrow lot.

There was one in support and one in opposition to this variance.

Mr. Clark asked if this was one of the narrowest lots in the neighborhood and what size was the home. Mr. Clough said it was at least four (4) feet narrower than any other lot and that the proposed home is less than 3,000 square feet.

Mr. Clark stated that due to City stipulations they cannot go any further up at the front and Mr. Clough affirmed and stated that the property to the east said they can bring the home closer to their property, but that unfortunately they can't because of the sanitary sewer easement.

Mr. Dan Stevens, Chairman of the Home Owner's Association spoke in support and stated that this setback from ten (10) feet to six (6) feet has happened several times in the history of their neighborhood and that the HOA speaks in favor of this variance request.

Mr. Maurice Levitt opposed. He is the next door neighbor at 191 Blair Valley Drive. He stated that the previous variance was approved by administrative variance and that he was not given an opportunity at that time to express his opinion. He was appreciative that this time he was given the opportunity to speak. He opposes because he feels that would make his property value go down and that having ten

(10) feet distance is close enough. He was amenable to splitting the difference by two (2) feet. He felt that you should build a house that fits the lot, not change a lot to fit a house.

Mr. Van Buren asked what side he is on and Mr. Levitt said he's on the side that's giving up four (4) feet.

Ms. Barber asked which house on the pictures provided in the staff report was his. He showed Ms. Barber and pointed to the house on the left of the bottom picture.

Mr. Clough offered his rebuttal disagreeing that the reduction in property line would de-value his property values. He believes that sixteen (16) feet between two (2) properties is still adequate.

Mr. Clark asked if he would consider changing from four (4) feet to two (2) feet and Mr. Clough said that the current house plans would not allow any kind of size change and therefore they would have to start over with new house plans.

Ms. Barber asked what year the lot was purchased and if the two houses on each side were already built and Mr. Clough stated that they purchased the lot in 2013 and that the two houses were already built on each side. He stated that at that time they were granted the variance that they seek now, through administrative variance, but that they were not aware that the variance had an expiration date.

Mr. Clark expressed concern over encroachment on the small piece of property, saying they couldn't go out with it, that they would need to go up with it and how it would affect the look of the subdivision. Mr. Clough disagreed stating that having a sixteen (16) foot separation between buildings is in line with most of the narrow lot portions of the subdivision.

Ms. Barber asked if he had any pictures and Mr. Clough said he had a plat of construction drawings and proceeded to show the board members.

Mr. Lowman asked for confirmation that they had the administrative variance before they started construction and Mr. Clough said yes, that the administrative variance was approved near the time that they purchased the lot and that they tried to market the lot for construction and never began because they never found a buyer.

Ms. Barber asked for confirmation that even if he was granted a variance that was two (2) foot shorter than what he's requesting, that he would have to start over with new plans and Mr. Clough affirmed.

The public hearing was closed.

A motion was made by Mr. Clark to deny the application. It was seconded by Mr. Lowman. The Motion carried 4-2-0. Mr. Mills and Mr. Leskoven opposed.

A motion was made by Board member Clark, seconded by Board member Lowman, that this Variance be Denied . The motion CARRIED by the following vote.

Absent: 1

Vote For: 4

Vote Against: 2

ADJOURNMENT:

The February 29, 2016 meeting of the Board of Zoning Appeals was adjourned at 7:10PM



JAMES (JIM) MILLS, CHAIRMAN



INES EMBLER, SECRETARY